

Mark H. Gunderson, Esq. (SBN: 2134)
Catherine A. Reichenberg, Esq. (SBN: 10362)
GUNDERSON LAW FIRM
3895 Warren Way
Reno, Nevada 89509
Telephone: (775) 829-1222
Facsimile: (775) 829-1226

Randall J. Sunshine, Esq. (SBN: CA 137363)
Ellyn S. Garofalo, Esq. (SBN: CA 158795)
LINER GRODE STEIN YANKELEVITZ
SUNSHINE REGENSTREIF & TAYLOR LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, California 90024-3503
Telephone: (310) 500-3500
Facsimile: (310) 500-3501
ADMITTED PRO HAC VICE

Attorneys for
DENNIS MONTGOMERY and the
MONTGOMERY FAMILY TRUST

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DENNIS MONTGOMERY and the
MONTGOMERY FAMILY TRUST,

Plaintiffs,

vs.

ETREPPID TECHNOLOGIES, LLC, WARREN
TREPP, and the UNITED STATES
DEPARTMENT OF DEFENSE,

Defendants.

AND RELATED CASES.

) Case No. 3:06-CV-00056-PMP-VPC
) BASE FILE

) (Consolidated with Case No. 3:06-CV-
) 00145-PMP-VPC)

) **DECLARATION OF ELLYN S.**
) **GAROFALO IN SUPPORT OF**
) **RESPONSE TO MOTION TO HOLD**
) **THE MONTGOMERY PARTIES IN**
) **CIVIL CONTEMPT RE FEBRUARY 25,**
) **2009 ORDER (DOCKET 968) AND**
) **REQUEST FOR SANCTIONS FOR**
) **FILING FRIVOLOUS MOTION**

1 I, Ellyn S. Garofalo, declare as follows:

2 1. I am an attorney admitted to practice in the State of California. I am a member of
3 the law firm of Liner Grode Stein Yankelevitz Sunshine Reegenstreif & Taylor LLP. I have been
4 admitted pro hac vice to practice before this as counsel of record for Dennis Montgomery, Brenda
5 Montgomery and the Montgomery Family Trust (collectively, the "Montgomery Parties"). As
6 such, I am competent to testify to the matters set forth herein.

7 2. I have spent 4.5 hours reviewing interested party Michael Flynn's Motion to Hold
8 the Montgomery Parties in Civil Contempt for their Refusal to Comply with the Order at Docket
9 968; and for Sanctions for their Violations, and preparing the Montgomery Parties' Response. My
10 standard billing rate is \$575 per hour. Thus, the Montgomery Parties have incurred attorney's fees
11 in the amount of \$2,587.50 in responding to Mr. Flynn's frivolous motion. I anticipate that I will
12 spend an additional hour reviewing Mr. Flynn's reply, assuming he does not withdraw this motion.
13 Additional fees and costs will also be incurred if the Court schedules a hearing on Mr. Flynn's
14 motion. I will file a supplemental declaration setting forth such costs should they be incurred.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct.

17 Executed on this 20th day of April 2009, at Los Angeles, California.

18
19 /s/ Ellyn S. Garofalo
20 Ellyn S. Garofalo
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices Of Liner Yankelevitz Sunshine & Regenstreif LLP, and that on April 20, 2009, I caused to be served the within document described as **DECLARATION OF ELLYN S. GAROFALO IN SUPPORT OF RESPONSE TO MOTION TO HOLD THE MONTGOMERY PARTIES IN CIVIL CONTEMPT RE FEBRUARY 25, 2009 ORDER (DOCKET 968) AND REQUEST FOR SANCTIONS FOR FILING FRIVOLOUS MOTION** on the interested parties in this action as stated below:

J. Stephen Peek, Esq. Jerry M. Snyder, Esq. Adam G. Lang, Esq. Shane M. Biornstad, Esq. Holland & Hart LLP 5441 Kietzke Lane, Second Floor Reno, Nevada 89511 (775) 327-3000; 786-6179 - FAX speek@hollandhart.com ; jsnyder@hollandhart.com , alang@hollandhart.com , sbiornstad@hollandhart.com Attorneys for eTrepid and Warren Trepp	Carlotta P. Wells, Sr. Trial Counsel U.S. Dept. of Justice Fed. Programs Branch Civil Division, Room 7150 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-4522; 616-8470 - FAX E-mail: Carlotta.wells@usdoj.gov Attorneys for Department of Defense
Reid H. Weingarten, Esq. Brian M. Heberlig, Esq. Robert A. Ayers, Esq. Steptoe & Johnson, LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036-1795 (202) 429-3000; (202) 429-3902 - FAX rweingarten@steptoe.com ; bheberlig@steptoe.com ; rayers@steptoe.com Attorneys for eTrepid and Warren Trepp	Raphael O. Gomez, Esq., Sr. Trial Counsel U.S. Dept. of Justice, Fed. Programs Branch Civil Division, Room 6144 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-1318; 616-8470 - FAX E-mail: raphael.gomez@usdoj.gov Attorneys for Department of Defense
Greg Addington, AUSA U.S. DEPARTMENT OF JUSTICE 100 W. Liberty Street. Suite 600 Reno, Nevada 89501 E-mail: Greg.addington@usdoj.gov (775) 784-5181 - FAX Attorneys for Department of Defense	Bridget Robb Peck, Esq. Lewis and Roca LLP 50 West Liberty Street, Suite 410 Reno, Nevada 89501 Tel: (775) 823-2900; Fax: (775) 823-2929 bpeck@lrlaw.com Attorneys for Atigeo LLC & Michael Sandoval
Roland Tellis, Esq. Marshall B. Grossman, Esq. Heather L. Ristau, Esq. Bingham McCutchen LLP 1620 26th Street, Fourth Floor, North Tower Santa Monica, CA 90404-4060 Fax: (310) 907-2143 E-mail: roland.tellis@bingham.com ; marshall.grossman@bingham.com ; heather.ristau@bingham.com Attorneys for Michael Sandoval	Robert E. Rohde, Esq. Gregory Schwartz, Esq. Rohde & Van Kampen 1001 Fourth Avenue, Suite 4050 Seattle, Washington 98154 Fax: (206) 405-2825 E-mail: brohde@rohdelaw.com , gschwartz@rohdelaw.com Attorneys for Atigeo LLC

Michael J. Flynn, Esq.
P.O. Box 690, 6125 El Tordo
Rancho Santa Fe, CA 92067
One Center Plaza, Suite 240
Boston, MA 02129
Fax: (858) 759-0711
E-mail: mjfb@msn.com

☒ **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document(s) to the persons listed above at their respective email address.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on April 20, 2009, at Los Angeles, California.

Ellyn S. Garofalo

(Type or print name)

/s/ Ellyn S. Garofalo

(Signature)